

Amendment No. 2 to HB1301

Zachary
Signature of Sponsor

AMEND Senate Bill No. 1146*

House Bill No. 1301

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-11-255, is amended by deleting the section and substituting instead the following:

(a) As used in this section and in § 36-1-142, unless the context otherwise requires:

(1) "Facility" means a hospital as defined by § 68-11-201, birthing center as defined by § 68-11-201, community health clinic, out-patient "walk-in" clinic, fire department that is staffed twenty-four (24) hours a day, law enforcement facility that is staffed twenty-four (24) hours a day, not including dispatch centers, or emergency medical services facility;

(2) "Member of the professional medical community" has the meaning provided in § 68-140-102; provided, that the member of the professional medical community is on the premises at the time of a voluntary delivery;

(3) "Newborn safety device" means a device:

(A) Designed to permit a mother to anonymously place a newborn infant aged fourteen (14) days or younger in the device with the intent to leave the newborn infant for an emergency medical services provider to remove the newborn infant from the device and take custody of the newborn infant;

(B) Installed with an adequate dual alarm system connected to the physical location where the device is installed. The dual alarm system must be:

(i) Tested at least once per month to ensure the alarm system is in working order; and

(ii) Visually checked at least twice per day to ensure the alarm system is in working order;

(C) Approved by and located inside a participating police station, fire station, or hospital that is:

(i) Licensed or otherwise legally operating in this state; and

(ii) Staffed continuously on a twenty-four (24) hour basis every day by a licensed emergency medical services provider; and

(D) Located in an area that is conspicuous and visible to a police station, fire station, or hospital staff; and

(4) "Voluntary delivery" means the action of a mother in leaving an unharmed newborn infant aged fourteen (14) days or younger on the premises of a facility, with a facility employee or member of the professional medical community at the facility, or in a newborn safety device, without expressing an intention to return for the newborn infant, and failing to visit or seek contact with the newborn infant for a period of thirty (30) days thereafter.

(b) A facility shall receive possession of a newborn infant left on facility premises with a facility employee or member of the professional medical community, or in a newborn safety device, if the newborn infant:

(1) Was born within the preceding fourteen-day period, as determined within a reasonable degree of medical certainty;

(2) Is left in an unharmed condition; and

(3) Is voluntarily left by a person who purports to be the newborn infant's mother and who does not express an intention of returning for the newborn infant.

(c) The facility, a facility employee, and a member of the professional medical community at such facility shall inquire, whenever possible, about the medical history of the mother and newborn infant. The facility shall also inform the mother that the mother is not required to respond. Information obtained concerning the identity of the mother, newborn infant, or other parent must be kept confidential and may be disclosed only to the department of children's services for use consistent with the purposes of this section and §§ 36-1-142 and 36-2-318. If practicable, the facility shall also provide the mother with both orally delivered and written information concerning the requirements of this section and §§ 36-1-142 and 36-2-318 relating to recovery of the newborn infant and abandonment of the newborn infant.

(d)

(1) A mother has the right to remain anonymous, shall not be pursued, and shall not be considered to have endangered a newborn infant under title 39, chapter 15, part 4 if the mother places the newborn infant:

(A)

(i) With an emergency medical services provider;

(ii) At a facility; or

(iii) Inside a newborn safety device; and

(B) Expresses no intent to return to the newborn infant.

(2) This subsection (d) does not apply when indicators of child abuse or child neglect are present.

(e) The facility, a facility employee, and a member of the professional medical community at the facility shall perform any act necessary to protect the physical health and safety of the newborn infant.

(f) The facility employee or member of the professional medical community at the facility who accepts physical custody of a newborn infant, or who physically retrieves a newborn infant from a newborn safety device that meets the requirements of this section, shall immediately arrange for the newborn infant to be taken to the nearest hospital emergency room and shall have implied consent to any and all appropriate medical treatment. The hospital shall immediately notify the department of children's services that the surrendered newborn infant is at the hospital. Upon notification, the department shall immediately assume care, custody, and control of the newborn infant.

(g) Notwithstanding a law to the contrary, an infant delivered to a facility authorized to accept an infant under this section or § 36-1-142, shall be issued by the office of vital records, a birth certificate in accordance with § 68-3-307, which supersedes and invalidates any previously issued birth certificate.

(h) Notwithstanding a law to the contrary, a facility, facility employee, and member of the professional medical community is immune from criminal or civil liability for damages as a result of actions taken pursuant to this section and § 36-1-142, and a lawsuit shall not be predicated on those actions. This section and § 36-1-142 do not abrogate an existing standard of care for medical treatment or preclude a cause of action based upon violation of such existing standard of care for medical treatment.

SECTION 2. Tennessee Code Annotated, Section 36-1-142, is amended by deleting subsections (a)–(c), substituting instead the following, and redesignating the subsequent subsections:

(a) Notwithstanding a law to the contrary and without complying with the surrender provision of this part, a facility or newborn safety device, as defined in § 68-

11-255, shall receive possession of an infant aged fourteen (14) days or younger upon the voluntary delivery of the infant by the infant's mother, pursuant to § 68-11-255.

(b) The facility, a facility employee, or a member of the professional medical community at such facility, shall notify the department of children's services immediately after taking possession of an infant under this section. Upon notification, the department or the department's authorized designee shall immediately assume the care, custody, and control of such infant and shall petition the appropriate court for legal custody of such infant.

(c) The facility, a facility employee, or a member of the professional medical community at such facility shall notify the office of vital records of the voluntary delivery of the infant in accordance with this section and § 68-11-255. The office of vital records shall issue a birth certificate for the child in accordance with § 68-3-307, which will supersede and invalidate any previously issued birth certificate.

(d) Voluntary delivery of an infant pursuant to § 68-11-255 and failure of the mother voluntarily delivering such child to visit or seek contact with such infant for a period of thirty (30) days after the date of delivery, and failure to seek contact with the infant through the department or to revoke the voluntary delivery within thirty (30) days after notice was completed pursuant to this section, which shall cumulatively be no less than ninety (90) days from the date such child was voluntarily delivered to such facility or newborn safety device, shall be a basis for termination of parental rights pursuant to this part.

SECTION 3. Tennessee Code Annotated, Section 36-1-102(1)(A)(v), is amended by deleting the subdivision and substituting:

(v) The child, as a newborn infant aged fourteen (14) days or younger was voluntarily left at a facility or in a newborn safety device by the child's mother pursuant to § 68-11-255; and, for a period of thirty (30) days after the date of voluntary delivery, the mother failed to visit or seek contact with the infant; and, for a period of thirty (30) days

after notice was given under § 36-1-142(f), and no less than ninety (90) days cumulatively, the mother failed to seek contact with the infant through the department or to revoke her voluntary delivery of the infant;

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.